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In re Application of
Pitt et al.
Application No.: 10/537,276
PCT No.: PCT/GB02/02730
Int. Filing Date: 14 June 2002
Priority Date: 12 February 2002
Attorney Docket No.: 8830-338 US1 (209954)
For: Method And Apparatus For Displaying
Advertisements On A Vehicle

DECISION
ON
PETITION

This is in response to the petition under 37 CFR 1.137(b) filed on 27 May 2005.

BACKGROUND

This international application was filed on 14 June 2002, claimed an earlier priority date of 12 February 2002, and designated the U.S. The International Bureau transmitted a copy of the published international application to the USPTO on 21 August 2003. The 30 month time period for paying the basic national fee in the United States expired at midnight on 12 August 2004. This international application became abandoned with respect to the national stage in the United States under 35 U.S.C. 371 for failure to timely pay the basic national fee.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed; (2) the petition fee as set forth in § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Regarding requirement (1), the required reply in the form of the \$150.00 small entity basic national fee has been paid.

Regarding requirement (2), the \$750.00 small entity petition fee accompanied the petition.

Regarding requirement (3), the petition itself does not include a statement of unintentional delay, but it is accompanied by a "Statement From Assignee In Support Of Petition For Revival Of Application" which is accompanied by an assignment document executed in favor of Agripa Limited by the inventors nominated in the international application. The "Statement..." has been signed by John Dunlop Pitt in the capacity of "CEO Agripa Limited." The "Statement..." indicates that "the entire delay in filing a national application related to the above international

application from the date the national application was required to be filed until the date of filing of grantable petition under 37 CFR 1.137(b) was unintentional," but the assignment in favor of Agripa was not executed until 26 May 2005, over nine months after the date the application became abandoned. Since assignee Agripa had no interest in the application between the date of abandonment (midnight on 12 August 2004) and the date the assignment was executed (26 May 2005), assignee does not have standing to state that the "entire delay" was unintentional. As such, assignee's statement relating to unintentional delay is not sufficient to satisfy the requirements of 37 CFR 1.137(b).

Regarding requirement (4), no terminal disclaimer is required because the international filing date of this application is later than 8 June 1995.

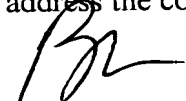
The declaration of the inventors is defective because the name of one of the inventors ("O'Neil") differs from the similar name ("O'Neill") of an inventor nominated by the published international application, and counsel has not adequately explained this discrepancy. Therefore, it is not clear if the declaration nominates the same inventive entity as does the published international application. Counsel is required to explain this discrepancy (e.g., whether it arose from a mere typographic error).

DECISION

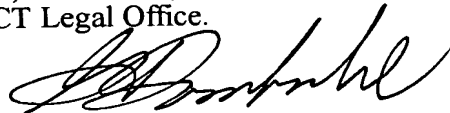
The petition under 37 CFR 1.137(b) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this matter is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)." Extensions of time may be obtained under 37 CFR 1.136(a).

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the PCT Legal Office.



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